



California Fair Political Practices Commission

March 21, 1989

Jan Brockman
O'Melveny & Myers
Three Embarcadero Center, Ste. 1080
San Francisco, CA 94111

Re: Your Request for Advice
Our File No. A-89-148

Dear Ms. Brockman:

You have requested confirmation of oral advice provided to you on behalf of Santa Anita Operating Company ("Santa Anita") regarding the lobbying disclosure provisions of the Political Reform Act.^{1/}

Your letter correctly summarizes my advice that Santa Anita is not required to disclose on its Report of Lobbyist Employer (Form 635) gifts or other payments which benefit members or employees of the California Horse Racing Board. Because Santa Anita does not attempt to influence "administrative actions" of the Board as that term is defined in Section 82002 and Regulation 18202, the Board members and employees are not "agency officials" under Section 86111 for purposes of Santa Anita's lobbying disclosure obligations.

Please do not hesitate to contact me at (916) 322-5662 if you have additional questions.

Sincerely,

Diane M. Griffiths
General Counsel

Carla Wardlow

By: Carla Wardlow
Political Reform Consultant

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

O'MELVENY & MYERS

400 SOUTH HOPE STREET
LOS ANGELES, CALIFORNIA 90071-2899
TELEPHONE (213) 669-6000
TELEX 674122 • FACSIMILE (213) 669-6407

1800 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-1589
TELEPHONE (213) 553-6700
TELEX 674097 • FACSIMILE (213) 552-3090

610 NEWPORT CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660-6429
TELEPHONE (714) 760-9600 • (213) 669-6000
TELEX 4722088 • FACSIMILE (714) 669-6994

555 13TH STREET, N.W.
WASHINGTON, D. C. 20004-1109
TELEPHONE (202) 383-5300
TELEX 89622 • FACSIMILE (202) 383-5414

THREE EMBARCADERO CENTER, SUITE 1080
SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 984-8700

FACSIMILE (415) 398-1553

March
3rd
1 9 8 9

CITICORP CENTER
153 EAST 53RD STREET
NEW YORK, NEW YORK 10022-4611
TELEPHONE (212) 326-2000
TELEX 129165 • FACSIMILE (212) 326-2061

10 FINSBURY SQUARE
LONDON EC2A 1LA
TELEPHONE 01-256 8451
TELEX 918859 • FACSIMILE 01-638 8205

AKASAKA TWIN TOWER, EAST 18TH FLOOR
2-17-22 AKASAKA, MINATO-KU
TOKYO 107, JAPAN
TELEPHONE (03) 587-2800
TELEX J23775 OMMTOKYO • FACSIMILE (03) 587-9738

OUR FILE NUMBER

750,010-007

WRITER'S DIRECT DIAL NUMBER

(415) 984-8741

VIA FEDERAL EXPRESS

Diane Griffiths
General Counsel
California Fair Political Practices Commission
428 J Street, Suite 800
P. O. Box 807
Sacramento, California 95804-0807

Dear Ms. Griffiths:

On behalf of our client, Santa Anita Operating Company ("Santa Anita"), we are requesting advice concerning the disclosure provisions of lobbyist employers under the Political Reform Act of 1974 (the "Act"). We have previously discussed this issue over the telephone with Carla Wardlow of your office and understand that no disclosure is required in the hereinafter-described circumstances. We are requesting written confirmation of that conclusion.

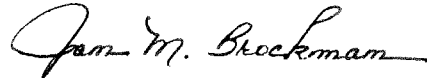
Santa Anita is a lobbyist employer within the meaning of the Act in that it "contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action." Section 86116(f) of the Act requires all lobbyist employers to report each "activity expense" of the filer. Section 86111 defines an activity expense as any expense incurred or payment made by a lobbyist employer "which benefits in whole or in part any elective state official, legislative official, [or] agency official...". Agency official as used in the Act means any official of a state agency whose administrative actions the lobbyist employer has attempted or is attempting to influence.

Santa Anita has in the past made gifts (in the form of complimentary lunches, tickets and parking at its racetrack) to the appointed members of the California Horse Racing Board. Activity expenses include gifts, honoraria, consulting fees, salaries and other forms of compensation. As stated previously, Santa Anita has contracted with lobbying firms, but solely for the purpose of influencing actions of the California legislature. Neither Santa Anita nor the lobbying firms with which it contracts have attempted or are attempting to influence the actions of the members of the California Horse Racing Board. Therefore, because no attempt is made to influence the actions of the California Horse Racing Board, such members are not "agency officials" under the Act and activity expenses benefitting them are not required to be reported by Santa Anita. (Such gifts may, however, be required to be reported by the board members on their Statement of Economic Interest.)

We have concluded that Santa Anita has not attempted to influence any "administrative action" of the California Horse Racing Board, even though it is subject to licensure requirements as a track operator. The California Horse Racing Board is the state agency responsible for issuing such license to Santa Anita. We do not believe that any proceedings with respect to the issuance of such license to Santa Anita involves "administrative action" within the meaning of the Act. Administrative action is defined in the Act as "the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding...". Regulation 18202 adopted pursuant to the Act provides that, among other types of proceedings, "a proceeding involving the issuance, amendment or revocation of a permit or license" does not constitute a quasi-legislative proceeding. Consequently, even though Santa Anita may be involved in proceedings with the California Horse Racing Board with respect to its license to conduct horse racing meetings, such involvement is not an attempt to influence "administrative action" within the meaning of the Act.

If our conclusions with respect to the obligation of Santa Anita to report gratuities to members of the California Horse Racing Board is correct, please sign this letter and return it to me in the enclosed envelope provided. If you have any questions regarding this matter, please do not hesitate to call me.

Very truly yours,



Jan M. Brockman
for O'MELVENY & MYERS

Diane Griffiths
General Counsel
Fair Political Practices Commission

Dated: _____

JMB:gmb

cc: Carla Wardlow, Fair Political Practices Commission
Alec Ingle, Santa Anita Operating Company



California Fair Political Practices Commission

March 7, 1989

Jan M. Brockman
O'Melveny & Myers
3 Embarcadero Center, Suite 1080
San Francisco, CA 94111

Re: Letter No. 89-148

Dear Mr. Brockman:

We received your letter requesting confirmation of advice under the Political Reform Act on March 6, 1989. Your letter has been assigned to our Technical Assistance and Analysis Division for response. If you have any questions, you may contact them directly at (916) 322-5901.

If the letter is appropriate for confirmation without further analysis, we will attempt to expedite our response. A confirming response will be released after it has gone through our approval process. If the letter is not appropriate for this treatment, the staff person assigned to prepare the response will contact you shortly to advise you. In such cases, the normal analysis, review and approval process will be followed.

You should be aware that your letter and our response are public records which may be disclosed to any interested person upon receipt of a proper request for disclosure.

Sincerely,

Diane M. Griffiths
General Counsel

DMG:plh:confadv1